IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4515 OF 2005

Manisha Shivram Jadhav ...Applicant
Vs.
The State of Maharashtra & Anr. ...Respondents

Ms Vidya Mangavde i/by Rajeev Sawant & Associates for the Applicant.
Mr. R.Y. Mirza, A.P.P. for the Respondent No.1-State.
Mr. D.N. Salvi for the Respondent No.2.

CORAM : A. S. OKA, J.
DATE : AUGUST 22, 2005.

P.C.:

1. Heard learned Advocate appearing for the Applicant and the learned Prosecutor for the Respondent No.2 and the learned A.P.P. for the State.

2. The learned advocate appearing for the Applicant submitted that there is nothing on record to substantiate the allegation of the prosecution that the Applicant is the wife of the accused No.1. He submitted that except for incriminating statements under section 67 of the Narcotic Drugs and Psycotropic Substances Act, 1985 which have been subsequently retracted, there is no material found against the Applicant. He submitted that it is a case of no evidence in so far as the Applicant is concerned.

3. The learned counsel for the Respondent No.2 has invited my attention to materail available against the Applicant.

4. Five kilo grams of heroine was recovered from the co-accused i.e. accused No.1. On a Specific Intelligence, Officers of N.C.B. Zonal Unit conducted a raid on 24th August, 2004 at a bus-stop of BEST bus at Wadala, Mumbai. At that time, the Applicant was found with the accused No.1. It is revealed that the accused No.1 was found holding the bag containing five kilo- grams of heroine. The present Applicant was in the company of the accused No.1 at the time of search. Section 29 of the said Act of 1985 has been applied.

5. Even if the alleged retracted statements are not considered, there is enough material on record to show the complicity of the Applicant in the offence for which provisions of Section 37 of the Narcotic Drugs and Psyoctropic Substances Act, 1985 is applicable. Whether the Applicant is married to the accused No.1 or not is matter for evidence. In my view, in the light of the constraints imposed by section 37 of the Narcotic Durgs and Psycotropic Substances Act, 1985, no fault can be found with a view taken by the learned Sessions Judge. No case is made out for grant of bail. Application is rejected.

JUDGE